



POLICE DEPARTMENT

May 7, 2015

MEMORANDUM FOR: Police Commissioner

Re: Sergeant Pierre Hyppolite
Tax Registry No. 915930
88th Precinct
Disciplinary Case No. 2013-9559

The above member of the Department appeared before me on March 16, 2015, charged with the following:¹

1. Said Sergeant Pierre Hypolite (sic), assigned to the 88th Precinct, while on duty, on or about February 2, 2012, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, in that said Sergeant responded unprofessionally to a Police Communications Technician as a result of being asked whether he was responding to a 10-39, crime in progress.²

PG 203-10, Page 1, Paragraph 5 – Public Contact- Prohibited Conduct

2. Said Sergeant Pierre Hypolite(sic), assigned to the 88th Precinct, while on duty, on or about February 2, 2012, failed and neglected to maintain said Sergeant's Activity Log (PD 112-145), as required.

P.G. 212-08, Page 1, Paragraph 1(c)(3). – Activity Logs

¹ On March 26, 2015, a post-trial conference was held in this matter in which Respondent informed the Court that he neglected to mention at trial that on or about January 24, 2013, he received a telephone call from Lieutenant Bullock in his precinct advising him that there would be no disciplinary action taken against him in this matter.

² According to Department records and Respondent's testimony, the correct spelling of his name is "Hyppolite."

The New York City Police Department (Department) was represented by Jamie H. Moran, Esq., and Respondent appeared *pro se*. Respondent entered a plea of Not Guilty to the charges. The Department called Police Communications Technician Raechelle Langley as a witness and submitted an audio recording and a transcript of a 911 transmission, as well as a copy of Respondent's activity log, as evidence. Respondent testified in his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

After evaluating the testimony and the evidence presented at the hearing and assessing the credibility of the witnesses, this tribunal finds that the preponderance of the credible evidence did establish that Respondent engaged in the charged misconduct.

FINDINGS AND ANALYSIS

There is no dispute in this case that on February 2, 2012, Respondent was assigned as a patrol supervisor in the 88 Precinct from 4:00 p.m. to midnight. At approximately 8:37 p.m., 911 operator, Raechelle Langley, radioed Respondent and asked him if he was responding to a reported trespassing. Respondent said, "Affirmative." (Tr. 37; Dep. Ex. 1, 1A). Moments later Respondent called Langley's landline, asked her how long she had been there, and told her he was on the toilet "taking a crap" (Tr. 17-18,37; Dep. Ex 1, 1A). Respondent did not make an activity log entry regarding taking a personal break or indicating where he was or what he was doing at approximately 8:37 p.m. on February 2, 2012. (Tr. 40-42; Dep. Ex. 2).

With regard to Specification No. 1, the Department presented the actual tape of the communication between the Respondent and Langley. Respondent did not dispute that it was his voice on the tape. On the tape the Respondent, as he admitted, can be heard saying to Langley, "I

am on the toilet booth...taking a crap." He also can be heard on the tape questioning Langley as to how long she has been doing her job and further telling her in a tone, which can be described as a reprimand, that it is not up to her to decide who she is going to tell to respond. Respondent tells Langley to leave it up to him as a supervisor to decide if he is going to respond. He again asks her if she is "new to this or what's going on?" At this point, Langley ends the call and says "Okay. Goodbye." (Dep. Ex. 1, 1A)

I find that Respondent's words to Langley, along with the tone in which he delivered them, were unprofessional. Langley was simply doing her job when she asked Respondent if he was going to respond to a crime in progress. Respondent made a point of calling her on a landline and used very base language to describe his activities to her. He also essentially reprimanded her for doing what she was supposed to be doing to determine if a crime in progress was properly being responded to. Respondent, at trial, was asked how a sergeant on patrol is supposed to let a dispatcher know that he is unavailable when they are taking a personal break. Respondent stated that he could have told her he was on a personal break or said a "10-62" personal. (Tr. 38). Respondent knew how he was supposed to respond and yet he did not do that.

With regard to Specification No. 2, the Patrol Guide requires a uniformed service member to record certain activities chronologically in his or her activity log. Activities to be recorded specifically include absences from post/sector or place of assignment. (P.G. 212-08, Pg.1, para, 1 (c)(3). Respondent acknowledged in his testimony that using toilet facilities to take a personal break while on patrol was an activity which was to be recorded in the activity log (Tr. 40). In Respondent's testimony he qualified his understanding of this requirement by saying it only applied if there was the opportunity to make the entry (Tr. 40). Respondent's position is that while he admits he did take a personal break by using the toilet facilities at Pratt Institute, he did

not have an opportunity to record his personal break in this case since he had to “go really bad” and that after his personal break he was told to “respond forthwith” to the precinct. (Tr. 43-44). This explanation does not provide an excuse for Respondent’s failure to comply with the Patrol Guide’s activity log requirements for two reasons. First of all, immediately after his personal break, Respondent was able to call the 911 operator and have a conversation with her. He could have made a notation in his activity log prior to calling her. Secondly, a review of Respondent’s activity log, which he authenticated at trial (Tr. 41), shows that Respondent did make an entry at 9:00 p.m. of “10-02.” (Notice is taken that this indicates Report to Command). Respondent therefore had from approximately 8:37 p.m. to 9:00 p.m., when he was ordered to report to his command, to make a notation in his activity log to simply indicate that he had taken a personal break.

Respondent argued in his defense that he was informed when he reported to his command on the incident date as well as on or about January 24, 2013 via telephone that he would not receive discipline as a result of this matter. However, an investigation was conducted in this matter and the decision was made, particularly after review of the 911 transmission, to serve Charges and Specifications on Respondent. The charges were preferred from a rank above Lieutenant Bullock. Thus Respondent’s defense was without merit.

Accordingly, Respondent is found Guilty of Specification Nos. 1 and 2.

PENALTY

In order to determine an appropriate penalty, Respondent’s service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974).

Respondent was appointed to the Department on June 30, 1995. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has been found Guilty of responding unprofessionally to a Police Communications Technician after she inquired whether he would be responding to a crime in progress. Respondent was also found Guilty of failing to maintain his sergeant's Activity Log. The Assistant Department Advocate asked for a penalty of the forfeiture of ten vacation days. The Court agrees.

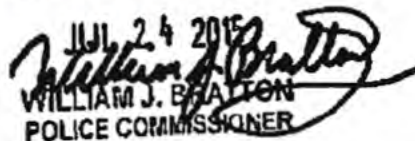
Accordingly, it is recommended that Respondent receive a penalty of the forfeiture of ten vacation days.

Respectfully submitted,

Handwritten signature of Claudia Daniels-DePeyster in black ink.

Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials

APPROVED

JUL 24 2015
Handwritten signature of William J. Bratton in black ink.
WILLIAM J. BRATTON
POLICE COMMISSIONER

**POLICE DEPARTMENT
CITY OF NEW YORK**

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
SERGEANT PIERRE HYPPOLITE
TAX REGISTRY NO. 915930
DISCIPLINARY CASE NO. 2013-9559

In 2014 and in 2013, Respondent received an overall rating of 3.0 "Competent," and in 2012, he received a 4.0 "Highly Competent" on his annual performance evaluations. Respondent has received 20 Excellent Police Duty medals in his career to date.

[REDACTED]
[REDACTED] On January 15, 2013. Respondent received a Negative Evaluation in behavioral dimensions.

Respondent has no prior formal disciplinary record.

For your consideration.

Claudia Daniels DePeyster ^{RM}

**Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials**